

City of Falls Church

Meeting Date: June 26, 2006	An Ordinance to Amend Chapter 38, Zoning, and Chapter 31, Subdivisions, of the Code of the City of Falls Church, Virginia by amending and reenacting Section 38-2 Definitions; Sections 38-16, R1-A, Low Density Residential District and 38-17, R1-B, Medium Density Residential District; 38-28, Height, Lot and Yard Regulations; and 31-11, Subdivisions, General Regulations; in order to revise single-family residential development regulations by clarifying height measurement and house orientation regulations and by strengthening pipestem lot, substandard lot and subdivision review regulations (TO6-11)	Agenda No.: 10 (d) (1)
Proposed Motion Move First Reading, refer to Boards and Commissions, and Schedule Second Reading for August 14, 2006		
Originating Dept. Head: Elizabeth Friel, GM, Development 703.248.5182 ERF		Disposition by Council:
CFO: John Tuohy 703.248.5092 JHT 6/22/2006	City Attorney: Roy Thorpe, Jr. 703.248.5010 RBT 6/22/06	City Manager: Daniel McKeever 703.248.5001 FWS for DEM

SUMMARY:

This legislation would revise and strengthen residential regulations in the City in the following areas:

- ❑ **HEIGHT**- Revise how building height is measured, to disallow disproportionate height for new single-family homes.
- ❑ **ORIENTATION**- Clarify that houses side, front and rear setbacks match the side, front and rear orientation of homes.
- ❑ **PIPESTEMS**- Add regulations that limit the number of new pipestem lots to 2 from an existing lot.
- ❑ **SUBSTANDARDS**- Clarify the intent of substandard lot section to insure that contiguous substandard lots under common ownership are required to be combined to conforming lots.
- ❑ **SUBDIVISIONS**- Require additional information on subdivision plats.

BACKGROUND:

OVERALL:

The 1997 and 2005 Comprehensive Plan contain a number of goals and strategies to be implemented to address the environmental and compatibility impacts of new residential

infill development. Over the past several years, the City Council and Planning Commission have discussed, researched and analyzed tools for addressing Residential Infill. This package of code changes has been recommended by the Planning Commission's Zoning Ordinance Review Subcommittee (ZORS) in April 2006 and also reviewed in detail in worksession format by the Planning Commission and City Council over the past 30 days. The City Council and Planning Commission together came to consensus on May 30, 2006 that these items should move forward to First Reading. Please see each item discussed in detail below.

HEIGHT:

Background:

Our current Code has allowed 35 feet of height in single-family neighborhoods since the Zoning Code was first adopted in 1959. However, much of the City's single-family homes were built in the 1940's and 1950's and many of these as 1 or 1 1/2 story cape cods or rambler style homes. When single family home redevelopment, particularly teardowns, began in earnest in the late 1990's neighborhoods were impacted as new 35 foot homes were built in neighborhoods of 1-1/2 story homes.

Although 35 feet is the "industry standard" and typical for a single family home, our Code actually allows more height than that in some circumstances. One issue is that the height can be measured from the curb or an average grade around the house site; whichever is higher (see attached graphic). A second issue is that the current Code is not specific as to whether pre-development grade or post-development grade is to be utilized for the baseline. The "more than 35' " houses that result particularly overwhelm their neighbors. This Code change will eliminate this possibility.

The City's 2005 Comprehensive Plan contains several goals that refer to the protection of the character of residential neighborhoods and specifically related to infill development. The City's 2001 Adopted Design Guidelines discuss height. These guidelines suggest that the height of existing neighborhoods should be considered when new buildings are introduced.

Code Change:

It is recommended the Code be revised to allow less variation in height based on changed grades, curbs or slopes. In this Code change, height is measured based on average natural (pre-development) grade and no curb height is considered. The changes also take out the "whatever is higher" caveat. See the proposed Code language that includes new and revised definitions regarding grade and height, below at Line 234-264.

HOUSE ORIENTATION:

Background:

The City's current Code does not specify that the front of the house needs to face the street or the front setback. While it would seem logical that house orientation match setbacks, there is actually a long precedent to allow variation in orientation from what is expected. The issue is that neighbors are greatly impacted when orientation varies. For example, when the rear of a new house is actually oriented toward its side yard and the side yard of the neighbors, the side yard becomes a rear yard activity area within 10' to

15' of existing house. The new house's back door, back deck or patio and associated noise all impact their neighbor in the area that is meant to be a side yard with very little activity. The setback and yard designations required by the Code are meant to provide appropriate distance and privacy between neighbors. The Code change would simply specify that front, side and rear setbacks equate to front, and side and rear house orientation.

The City's 2005 Adopted Comprehensive Plan contains several goals that call for residential infill development to be reviewed and addressed through Code changes. House orientation is also mentioned in the City's 2001 Adopted Design Guidelines with a policy goal that states "Orient the façade of new construction in the same direction as adjacent buildings".

Code Change:

As described above, see the proposed Code language below at Lines 284-287 and Lines 305-308.

PIPESTEM LOTS:

Background:

Pipestem lots are accessed through a minimum of a fifteen (15) feet "pipestem" driveway, which allows lots to be configured in a stacking pattern in the R1-A and R1-B Single Family Zoning Districts. Increasingly pipestem lots seem developed in a manner that is intrusive to the City's development pattern. These impacts are increased greatly when a new pipestem "neighborhood" of 3 or more lots is introduced in an existing neighborhood.

The City's 2005 Adopted Comprehensive Plan contains several goals that call for pipestem lot development in particular to be reviewed and addressed through Code changes. The City's 2001 Adopted Design Guidelines state that new residential development sites should reflect the general arrangement of existing lots on the street.

Code Change:

The proposed code amendment will limit the number of pipestems to 2 from any existing parcel. (See the proposed Code language below at Lines 279 and 301). Please note that new height and house orientation revisions will also effectively mitigate the negative impacts of pipestem development. The changes proposed for impervious and lot coverage will apply to pipestem lots as well in an equitable manner (see T06-12). Finally, an enhanced subdivision process will impact all new lots going through the subdivision process. The new information on subdivision plats will be particularly useful for pipestems, with their unique impacts. See the proposed Code language below at Lines 356-373.

SUBSTANDARD LOTS:

Background:

When much of the City was subdivided in the 1940s, a number of small lots, some as small as 3000 square feet were created. Most residents bought 2 or more lots and built a single home over those lots. However, when the first Zoning Ordinance was adopted in 1959, two single-family zoning districts were established with larger required lot

118 sizes. These regulations, R1-A and R1B, have been unchanged for the past 40 years.
119 The R1-A District requires a minimum lot size of eleven thousand two hundred fifty
120 (11,250) square feet and the R1-B District requires a minimum lot size of seven
121 thousand five hundred (7,500) square feet. Approximately one-third of all R1-A lots
122 are substandard and approximately one-quarter of all R1-B lots are substandard per
123 these regulations.

124
125 The current Code says that any lot created before 1944 can be built upon provided it is
126 in an R district or cannot be “reasonably combined” with other property to meet the
127 minimum requirement. The Code’s intent is to allow the single lot, single home
128 property owners to have continued development rights on their lot. However, in some
129 cases, several substandard lots are under common ownership with an existing house
130 built over these lots. These lots could be “reasonably combined” to create a
131 conforming lot or lots prior to redevelopment. However, if the owner sells off the lots
132 before the City is involved, there is no mechanism for the City to prevent this private
133 transaction. Further, the development that occurs on these lots is increasingly
134 incompatible with the City’s neighborhood’s development pattern and these homes are
135 often the ones that cause neighborhood complaints.

136
137 The City’s 2005 Comprehensive Plan contains goals and strategies that support
138 restricting the development of substandard lots. Goal 1.C states, “*Promote compatibility*
139 *with existing neighborhoods, improvement of the existing housing stock, and*
140 *environmental preservation in relation to infill residential development.*” The Plan also
141 has a recommended action that states that the City should consider revisions to the
142 zoning ordinance regarding building coverage, impervious coverage, and substandard
143 lots.

144
145 ***Code Change:***

146 Staff has found that the Cities of Chesapeake Suffolk, Norfolk, Hampton, Newport
147 News, Alexandria, and Virginia Beach, all have similar Code language. Each of these
148 cities had Code language like the City of Falls Church’s current language, but felt
149 compelled to strengthen and clarify the underlying language.

150
151 Staff had been suggesting an option similar to Chesapeake’s, which “merged”
152 substandard lots under common ownership. Specifically, the language stated
153 "Contiguous lots under the same ownership that have a lot width of less than 40' shall
154 be considered merged into one lot as of February 22, 2006". In further discussions,
155 staff found that this language that sets a date in time as a trigger might be problematic
156 for enforcement. This is particularly true because the City’s deed records are kept in
157 both Fairfax and Arlington Counties and discrepancies have been found in the various
158 tax maps that reflect lot lines for the City. Staff felt that a simple explanation of what
159 was and was not permitted, written as Code, would work better.

160
161 Staff found language in the Virginia Beach Code that addresses this concern and used it
162 as a base model for the new language. The proposed code language requires owners of
163 lots that are substandard, who also own lots adjacent to those lots, to combine them to
164 meet the minimum lot size of the district. This is applicable to substandard lots adjacent

to other lots in common ownership and substandard lots adjacent to standard lots under common ownership.

Also note that new height as well and house orientation revisions will effectively mitigate the negative impacts of substandard lot development. The changes proposed for impervious and lot coverage will apply to substandard lots in a proportional manner (see T06-12) See the proposed Code language below at Lines 315-345.

SUBDIVISION REVIEW:

Background:

The Planning Commission's subdivision process and requirements are limited to reviewing the most basic Code requirements. The Planning Commission holds a public hearing for new subdivisions, but the information provided to them and to the public is limited. The neighbors have little influence or information when they attend the public hearings for new subdivisions. Additional information about the development would enable the Planning Commission and public to provide more direction to applicants about infill development and thereby reduce some of the negative impacts.

Code Change:

The addition of house orientation, tree preservation, and the possibility of more vegetative screening for adjacent properties will enable the Planning Commission and the public to provide input on the context of the new homes and affect the impact of those new properties on the existing neighborhoods. See the proposed Code language below at Lines 355-372 for this new language.

TIMING: Routine, as detailed below

- ❑ **June 26 –City Council Public Hearing and 1st reading**
- ❑ **June 29 and July 6-Run Legal Ads for Planning Commission Public Hearing.**
- ❑ **July 7 – Notify Property Owners (All those impacted by pipestem and substandard changes)**
- ❑ **July 11 – Special Planning Commission Worksession**
- ❑ **July 17-Planning Commission Public Hearing**
- ❑ **July 20 and July 27 –Run Legal ads for City Council Second Reading**
- ❑ **August 14, 2006 City Council Public Hearing and 2nd Reading**

(TO6-11)

AN ORDINANCE TO AMEND CHAPTER 38, ZONING, AND CHAPTER 31, SUBDIVISIONS, OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA BY AMENDING AND REENACTING SECTION 38-2 DEFINITIONS; SECTIONS 38-16, R1-A, LOW DENSITY RESIDENTIAL DISTRICT AND 38-17, R1-B, MEDIUM DENSITY RESIDENTIAL DISTRICT; 38-28, HEIGHT, LOT AND YARD REGULATIONS; AND 31-11, SUBDIVISIONS, GENERAL REGULATIONS; IN ORDER TO REVISE SINGLE-FAMILY RESIDENTIAL DEVELOPMENT REGULATIONS BY CLARIFYING HEIGHT MEASUREMENT AND HOUSE ORIENTATION REGULATIONS AND BY STRENGTHENING PIPESTEM LOT, SUBSTANDARD LOT AND SUBDIVISION REVIEW REGULATIONS

Section 38-2, Definitions

(a)-(c)....

“Accessory Dwelling Unit”- “Building Capacity” definitions...

Building Footprint: The surface area occupied by a building, expressed in square feet.

“Bulk plane”- “Grade Level” definitions...

Grade Level, Finished: The grade level immediately adjacent to the building footprint not otherwise deemed to be the Natural Grade Level. Finished Grade shall include ground disturbance subject to a grading plan or that serves to increase allowable building height.

Grade Level, Natural: The ground level immediately adjacent to the building footprint, with no adjustment having been made to the existing undisturbed ground level. Natural Grade may include minor ground disturbances associated with landscaping, repairs to existing structures as required by the building official, or other incidental grade adjustments that do not serve to allow an increase in the height of an existing building or that would otherwise be possible prior to the ground disturbance.

“Gross Site Area” – “Hedge” definitions...

Height of a building (in feet). The vertical distance from the established curb line, or from the average grade level at the building line if higher, to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, and gambrel roofs. (See Illustration 3.)

Height of a building (in feet): The vertical distance measured from the average grade of the building footprint to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, and gambrel roofs. Average grade shall be determined using the finished grade level or the natural grade level, whichever is lower.

“Height of a Building in stories”- “Yard, Side” definitions.

Sec. 38-16. R-1A, low-density residential district.

(a)-(d)...

(e) Conditions applying to permitted uses

(1) Minimum lot area.

- a. For one-family dwellings, eleven thousand two hundred fifty (11,250) square feet. For a pipestem lot, the minimum required lot area shall be calculated by excluding any portion of the lot between the front lot line and the building setback line which is less than thirty (30) feet in width, the width being determined by a line which is perpendicular to any side lot line. **Only two (2) pipestem lots shall be permitted to be subdivided from any individual parcel.**

(2) Minimum lot width

(3) Minimum yard requirements

(a)-(c)...

d. One-family dwellings shall be located so that the front of the dwelling is oriented toward the front setback and street; the side of the dwelling toward the side setback and the rear of the dwelling toward the rear setback.

(4)-(7)

Section 38-17, R-1 B, Medium Density Residential

(a)-(d)...

(e) Conditions applying to permitted uses

(1) Minimum lot area.

- a. For one-family dwellings, seven thousand five hundred (7,500) square feet. For a pipestem lot, the minimum required lot area shall be calculated by excluding any portion of the lot between the front lot line and the building setback line which is less than thirty (30) feet in width, the width being determined by a line which is perpendicular to any side lot line. **Only two (2) pipestem lots shall be permitted to be subdivided from any individual parcel.**

(2) Minimum lot width

(3) Minimum yard requirements

(a)-(d)...

e. One-family dwellings shall be located so that the front of the dwelling is oriented toward the front setback and street; the side

307 of the dwelling toward the side setback and the rear of the
308 dwelling toward the rear setback.

309 (4)-(7)...

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311 **38-28, Height, lot and yard requirements**

312 (a)...

313 (b) Additional requirements, exceptions and modifications

314 (1)...

315 (2) Substandard lots.

316 a. Any lot of official record as of February 14, 1944, or any lot
317 of a subdivision approved by the city from February 14, 1944, to
318 the effective date of this chapter, which does not meet the lot size
319 requirements for the district in which it is located, may be used
320 for a one-family dwelling, provided **it is in an “R” District;**
321 **however,**

322 **a. It is in an “R” District and**

323 **b. It cannot reasonably be combined with other property to**
324 **meet the minimum requirements.**

325 **b. If the owner of a lot which does not meet the minimum**
326 **requirements of the R1-A or R1B Residential Districts is**
327 **the owner of or becomes the owner of another**
328 **substandard lot adjacent to it, he is not entitled to**
329 **development rights as described in (a) above. In this**
330 **instance, the owner of the two (2) or more adjacent**
331 **substandard lots must combine the two (2) or more lots to**
332 **form one which will meet the area requirements of the**
333 **ordinance applicable within the R-1A and R-1B**
334 **Residential Districts.**

335 **c. The owner of contiguous substandard lots is prohibited**
336 **from conveying one or more of the substandard lots with**
337 **the result that both the grantors and the grantee possess**
338 **development rights as described in (a) above.**

339 **d. Status as a single and separate owner may not be acquired**
340 **after enactment of this ordinance by selling a parcel and**
341 **reducing the remainder below the minimum lot**
342 **requirements nor may an owner of several contiguous**
343 **nonconforming parcels combine them so as to leave a**
344 **substandard lot, and assert development rights as**
345 **described in (a) above.**

346
347
348 **Sec. 31-11, Subdivisions, General Regulations.**

349 The following shall be considered minimum requirements and shall be varied
350 only for specific reasons, stated of record by the planning commission in
351 connection with the final approval of the plat to which related:

352 (a)-(c)...

(d) Building sites. Building sites shall have frontage on existing or recorded public streets and shall have the dimensions and areas in the provisions of this code relative to zoning. **Orientation of houses shall be shown for all new lots.**

(e) ...

(f) Street layout. Streets shall be provided to give access to adjoining acreage and to connect with the principal streets in adjoining subdivisions or to connect with existing or proposed streets, as determined by the planning commission. Reserve strips intended to protect the use of dead end and boundary streets are prohibited. Cul-de-sac streets shall not exceed four hundred (400) feet in length and shall be provided with a turn-around with a minimum right-of-way radius of fifty (50) feet. Blocks in general shall not be longer than one thousand (1,000) feet between street intersections unless warranted by some unusual condition. **Only two new pipestem lots shall be permitted to be subdivided from any existing lot.**

(g)-(h) ...

(i) Trees. Whenever deemed necessary by the planning commission, street trees **and/or additional screening**, shall be planted in such locations as may be designated by the director of public works and the trees shall be of sizes and types approved by him. **All trees to be preserved shall be shown on the final plat.**

1st Reading: 6-26-06

2nd Reading:

Adoption: _____

(TO6-11)